

12th August 2013

Older persons want full and equal enjoyment of their rights

On the occasion of the 4th session of the Open-Ended Working Group on Ageing (OEWG), AGE Platform Europe, the EU-wide network representing directly over 30 million older people in the continent, wishes to reiterate the great interest of our members in the on-going discussions. As a self-advocacy organisation we strongly believe that **older people should have a strong voice in all processes that affect them**, including on how to achieve a strengthened protection of their rights at the UN level. Since so far the EU's position in this debate has not been informed by the views of EU senior citizens, this note aims to fill this gap by ensuring that older persons have a say on issues that concern them.

Why is AGE advocating for a comprehensive human rights framework for older persons

Human rights do not decrease with age or dependency

In general, but even more at times of crisis, seniors are often portrayed as non-productive and dependent persons representing a strain on the social and health care system. Viewing ageing as a burden and focusing policies for older people on the delivery of public services, fails to take into account the social, cultural and professional resource that older people represent and reinforces dependence, passivity and negative stereotypes. Changing well-established attitudes that consider older persons as mere service recipients is impossible as long as the discussion is about economy and needs. On the contrary the rights-based discourse focuses on the inherent **dignity that all persons regardless of age should enjoy on an equal basis with others**. A new legal framework, although it is not a panacea, can act as an anti-discriminatory and mainstreaming tool and is the best way to challenge prevailing stereotypes about old age.

The current framework is not enough to prevent rights violations

The existing legal and policy framework is not sufficient to adequately protect the rights of older persons and implement equality across the life course and in all life settings. Although there exists abundant soft law for older persons, in reality **the rights of older persons are still often**

ignored and sometimes totally denied¹, specifically in terms of chronic poverty, violence and abuse, inadequate access to appropriate quality care, disrespect for dignity and autonomy, lack of educational and recreational opportunities, little or no access to the law, and exclusion from social and political participation. Age discrimination varies from denying work to a person because of their age, to excluding elderly people from health prevention programmes. EU age discrimination legislation is one-dimensional and it does not offer protection outside the employment sector. The current situation of the elderly clearly demonstrates that self-regulation by individual countries is simply not enough to promote enforcement and change². There is a need for a comprehensive human rights framework, which does not adopt a narrow and selective approach on the rights to be protected but can tailor all the existing rights, which older persons should enjoy, in the context of this particular population group. Only such a comprehensive framework can provide international standards, sufficiently guide policymaking across sectors, steer effective

¹ 'Aged people are too often ignored and denied their full human rights', Thomas Hammarberg, ex CoE Commissioner for Human Rights (2008)

² 'The necessity of a human rights approach and effective United Nations mechanism for the human rights of the older person', Working paper prepared by Ms. Chinsung Chung, member of the Human Rights Council Advisory Committee (2010)

implementation and install enforcement processes.

Older persons are not treated as equal rights holders

While the existing human rights framework applies to everyone without age limits and older persons do not have special rights, the realisation of their human rights is in practice impeded by negative attitudes and extensive discrimination towards ageing persons. **Just because human rights are conceived as universal and by default there are no “normative gaps”, it does not mean that rights are universal in practice**, neither that there is no need to do more to attain equality across ages.

The basis of the UN treaties for women, people with disabilities and children has not been the urgency to fill the supposed existing normative gaps, neither the need to create new rights. These treaties simply aimed to make universal human rights real in the context of these particular groups. The lack of any explicit mention of this specific group in binding legal instruments renders older persons invisible in law and in practice and fails to make universal rights equally effective for seniors as for other groups.

The fundamental case for a new comprehensive framework lies in the **inequality and invisibility older persons are still suffering from under the existing mechanisms**.

Safeguarding older persons' rights is an investment

Advancing older person's health, autonomy and opportunities for participation through a new human rights framework has numerous benefits for households and society at large. Prohibiting age discrimination in employment allows their participation in the workforce and leads to personal wealth, economy growth and the extension of working lives tackling the issue of sustainability of pensions. Existing barriers for older people in their access to and participation in the workplace coincide with high levels of unemployment among young people, which

showcases that an intergenerational approach to policymaking is needed. Experience in EU member states shows that there is a business case for age diversity in the workplace, which can be promoted through equal treatment legislation³.

Enshrining a right to quality long-term care will ensure a supportive environment and will help reduce the demand on care and assistance for the rapidly growing number of older people. This will also enable informal carers to reconcile work and care duties and allow older persons to undertake caregiving and volunteering activities, a largely underestimated contribution made by older people to economies and societies. Action to improve services for older people will also boost innovation and growth potential and will bring economic benefits at local, national and EU levels. On the contrary, limiting the choices of and opportunities for older people, has a negative impact on the wellbeing and ultimately the health of older people. This is not bad for older persons alone but for society as a whole, as it misses the wide-ranging resources brought by older persons.

Yet, **under the current legal and policy framework little has been done to enable older people to remain active and healthy and to live independent lives for longer**. A human rights approach will allow older people to become full actors of society, to contribute to their communities and collectively tackle the challenges of the economic and demographic crises. The concepts of active ageing and intergenerational solidarity should be renewed as human rights principles in a UN instrument dedicated to the rights of older persons.

³ Network of socio-economic experts in the anti-discrimination field, SYNTHESIS REPORT I – 2011 - OLDER WORKERS, DISCRIMINATION AND EMPLOYMENT, Human European Consultancy



Conclusions

For AGE a **UN legal instrument such as a Convention on the Rights of Older Persons is needed to fully understand how existing human rights apply to older people and can be effectively enforced as part of the UN system.**

Such an instrument would not only codify the rights of older persons in one single document - which is indeed an important tool to increase visibility of older people, guide policies and advocacy and raise public awareness - but it would also specify State obligations, improve accountability and broaden overall understanding of the rights of older persons as well as create societies and environments for all ages, where older people are able to contribute, prosper and enjoy their rights.

AGE Recommendations to UN Member States and the EU

Short term

- Actively engage in the discussions taking place in the frame of the OEWG on ageing and other UN instances
- Organise large consultations on the situation of older persons' rights and how to better protect them, including the need or not for a comprehensive mechanism, inviting older persons' representatives and other civil society actors, such as equality bodies, NHRIs, professionals, legal experts, etc.
- Create synergies with relevant initiatives at the national and regional levels, including the Draft Council of Europe Recommendation
- Gather disaggregated data, which can be used for evidence-based policies on ageing

- Adopt a human rights approach in all policies targeting older persons
- Ensure that the position presented at the OEWG and other UN bodies is informed by the views of older persons
- Include older persons' representatives in their national delegations to OEWG
- Support and fund research on ageing, including the legal definition of old age, how soft law is implemented and taken into account in national case-law, the social and economic impact of a new instrument, etc., which can help deepen understanding and define substantively the rights of older persons.
- Re-establish at the EU level the European Parliament Intergroup on Ageing and Solidarity between Generations and consider creating similar groups in national parliaments, to increase focus on challenges related to ageing, as well as improve transparency and efficiency.

Long term

- Acknowledge the human rights of older persons and the necessity to protect these at the UN level
- Work towards a comprehensive legally binding mechanism on the rights of older persons
- Draft and adopt a UN Convention on the rights of older persons

For more information

Anne-Sophie Parent, Secretary General :

annesophie.parent@age-platform.eu

Nena Georgantzi, Legal & Research Officer :

nenageorgantzi@age-platform.eu



About AGE

AGE Platform Europe (AGE) is a European network of around 165 organizations of and for people aged 50+ representing directly over 30 million older people across Europe. AGE aims at voicing and promoting the interests of the 150 million inhabitants aged 50+ in the European Union and at raising awareness of the issues that concern them most.

Relevant AGE publications and position papers

- AGE letter for the establishment of an EU-level multi-stakeholder dialogue group on the rights of older persons: http://age-platform.eu/images/Final_Letter_VP_Reding-Lambrinidis_24_05_2013.pdf
- AGE contribution to UN DESA call for NGO input: http://age-platform.eu/images/AGE_UN_DESA_input_FINAL.pdf
- AGE Contribution to the Council of Europe (CoE) Recommendation on the promotion of the human rights of older persons: [http://www.coe.int/t/dghl/standardsetting/hrpolicy/other_committees/cddh-age/Document_CDDH_AGE/CDDH-AGE\(2013\)09_Age-Platform_en.pdf](http://www.coe.int/t/dghl/standardsetting/hrpolicy/other_committees/cddh-age/Document_CDDH_AGE/CDDH-AGE(2013)09_Age-Platform_en.pdf)
- AGE response to the OHCHR consultation on the rights of older people: http://www.age-platform.eu/images/stories/FINAL_AGE_contribution_to_OHCHR_consultation_on_rights_of_older_people_15-3.pdf
- 'Older People also suffer because of the Crisis: http://www.age-platform.eu/images/stories/EN/olderpeoplealso_suffer_bcof_the_crisis-en.pdf
- Shadow report on older people's fundamental rights: http://www.age-platform.eu/images/stories/AGE_response_2010_Fundamental_Rights_Report_Nov11.pdf
- The rights of older people with autism: http://www.age-platform.eu/images/stories/Autism_Europe_AGE_Report_on_ageing.pdf
- The voices of older ethnic minorities and migrants are not heard in Europe <http://age-platform.eu/en/age-a-the-media/age-communication-to-the-media-press-releases/1571-the-voices-of-older-ethnic-minorities-and-migrants-are-not-heard-in-europe>
- Equality for older lesbian, gay, bisexual, trans and intersex people in Europe: http://www.age-platform.eu/images/stories/Combating_discrimination_on_the_grounds_of_age_and_SOGI_final.pdf
- Towards Smart, Sustainable and Inclusive Places for All Ages: http://www.age-platform.eu/images/stories/AGE_Friendly_Environment_Final_PDF-EN.pdf
- Background document for Hearing "Unblocking the Anti-Discrimination Directive" on age discrimination in access to financial services: http://www.age-platform.eu/images/stories/Background_document_anti-discrimination_directive_AGE.pdf
- AGE contribution to the European Commission's assessment of the transposition and application of Employment Equality Directive: http://www.age-platform.eu/images/stories/EN/AGE_response_to_EC_consultation_on_implementation_of_Employment_Directive_FINAL.pdf
- European Quality Framework for long-term care services: <http://www.wedo-partnership.eu/european-quality-framework-long-term-care-services>
- European Charter of rights and responsibilities of older people in need of long-term care and assistance: http://www.age-platform.eu/images/stories/22204_AGE_charter_europeenne_EN_v4.pdf
- Accompanying Guide to the European Charter: http://www.age-platform.eu/images/stories/22495_EN_06.pdf